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SEP 23 2008

Sarah Kunstler
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Of Counsel

September 22, 2008

BY HAND DELIVERY

The Honorable Richard M. Berman
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: U.S. v. Aafia Siddiqui
08 Cr. 826(RMB)

SO ORDERED
Date: 9/25/08

Richard M. Berman
Richard M. Berman, U.S.D.J.

Dear Judge Berman,

Please accept this letter as our response to the government's letter dated September 19, 2008. We are submitting the latest medical and psychiatric reports provided to us by MDC with this letter. We have already provided the government with copies. With the government's consent, we ask that these records be filed under seal.

These additional records establish beyond dispute that Dr. Siddiqui is suffering from severe mental illness which renders her incompetent under any definition of the word. Dr. Siddiqui needs immediate psychiatric treatment in a psychiatric hospital.

On September 12, 2008, Diana Guerrero Cohen, the staff psychologist at MDC, filed a report entitled "Deteriorated Mental Status." According to Dr. Guerrero Cohen,

Ms. SIDDIQUI [sic] mental status appears to be deteriorating, judging by her increased depression, and experience of visual and auditory hallucinations and verbalization of paranoid delusions. Improvement of Ms. SIDDIQUI's mental illness will be very difficult in light of her refusal of all mental health treatment (i.e., psychopharmacological and psychological), the lack of change and/or worsening of her environmental stressors, and the cumulative

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effect of prolonged social isolation, intensified by her refusal to accept visits or go to court.

Dr. Guerrero Cohen's conclusion makes it clear that Dr. Siddiqui must be treated in a therapeutic atmosphere under professional medical care by people trained to alleviate her extreme suffering and delusions.

The government's proposed order would result in Dr. Siddiqui's transfer to the Federal Medical Facility in Carswell, Texas, the only Bureau of Prisons medical facility that treats female detainees. Given her psychosis, I believe that the transfer to Fort Worth, Texas, along with the attendant prison airlifts, heavy restraints, and continual strip searches, would further exacerbate Dr. Siddiqui's pain and illness.

In addition, in order for me to develop an attorney-client relationship with Dr. Siddiqui, I have to be able to spend time with her on a regular basis. While this would be possible if she were in a psychiatric facility in New York, it would be impossible if Dr. Siddiqui remains in BOP custody and is transferred out of the City.

Moreover, from my own personal experience with clients and through investigation, I know that the Federal Medical Center in Carswell, Texas has been called a "Hospital of Horrors."¹ One of my clients was transferred to Carswell to receive chemotherapy. She did not receive it for one full year after the therapy was prescribed. She died of classic Kaposi's Sarcoma, a cancer with a low mortality rate - when treated.

¹ Brink, Berry. 2005. Hospital of Horrors: Time in Carswell's prison medical facility can be a death sentence for women prisoners. *Fort Worth Weekly*, October 19. <http://www.fwweekly.com/content.asp?article=3325> (accessed September 22, 2008). Another *Fort Worth Weekly* article dated January 31, 2007 catalogues further neglect, mistreatment, lack of treatment, and abuse. See <http://www.fwweekly.com/content.asp?article=4583> (accessed September 22, 2008).

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According to an October 19, 2005 article in the Fort Worth Weekly, a number of inmates at Carswell have died under "questionable circumstances." In addition, the newspaper reports that "accusations of gross medical neglect, rape by prison guards, and toxic exposure for prison workers . . . continue to pile up."

In 2003, a former Carswell staff physician was convicted for sexually abusing inmates;² in 2004, a former Carswell correctional officer was convicted of raping an inmate³; in 2006, Dr. Roger Guthrie reported that he was fired from Carswell after he complained about the sexual abuse of prisoners, which he said was "rampant;"⁴ and in May of 2008, a priest who sexually abused inmates at Carswell was sentenced to four years in prison.⁵

The Forensic Unit at Elmhurst Hospital will provide a secure custodial environment where Dr. Siddiqui can receive psychological and medical care. We do not believe a competency examination under 18 U.S.C § 4241 should be undertaken until Dr. Siddiqui is treated for her obviously incapacitating mental illness, as it is clear that she is incompetent. However, should the Court order such an evaluation at this time, the Forensic Unit at Elmhurst was designed for this specific purpose.

² Fort Worth Star Telegram, 2003. Prison doctor gets 14 months for abuse. October 23.

³ Fort Worth Star Telegram, 2004. Ex correction officer is sentenced for rape. July 3.

⁴ USA Today, 2006. Former inmates, experts say that prisoner sexual abuse is out of control. June 22. http://www.usatoday.com/news/nation/2006-06-22-prison-rape_x.htm (accessed September 22, 2008).

⁵ Reuters Newswire, May 5, 2008. <http://www.reuters.com/article/pressRelease/idUS12561+06-May-2008+PRN20080506> (accessed September 22, 2008).

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Thank you for your kind consideration in this matter.

Respectfully yours,



Elizabeth M. Fink
Attorney for Aafia Siddiqui

cc: AUSA David Raskin, Esq.
AUSA Christopher LaVigne, Esq.
BY HAND